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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,554	01/15/2004	Michael Jay Ottati	200301218-3	8097

7590 10/03/2005
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

LAO, SUE X

ART UNIT PAPER NUMBER

2194

DATE MAILED: 10/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/759,554

Applicant(s)

OTTATI, MICHAEL JAY

Examiner

Sue Lao

Art Unit

2194

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/15/2004</u> . | 6) <input type="checkbox"/> Other: ____. |

12

DETAILED ACTION

1. Claims 1-22 are presented for examination.
2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-22 are rejected under the judicially created doctrine of obviousness - type double patenting as being unpatentable over claims 1-10 of U.S. Patent No. 6,704,764. Although the conflicting claims are not identical, they are not patentably distinct from each other. In particular, as to claims 1, 8, U.S. Patent No. 6,704,764 teaches providing a separate Java Virtual Machine to instantiate a thread in a data processing system, such that the processor: receives at least one request for service (claim 1, line 4); identifies a resource requested and a class corresponding to the resource (claim 1, lines 5-6); if a virtual machine is available, reuses the available virtual machine by a single thread only by loading the virtual machine to instantiate the thread corresponding to the requested resource, wherein the virtual machine is

Art Unit: 2194

available if the virtual machine has a matching process identification and thread identification and is not busy (claim 1, lines 7-13); and if the virtual machine is unavailable, spawns and loads a new virtual machine to instantiate the thread corresponding to the requested resource, wherein the virtual machine is unavailable if either the virtual machine does not have the matching process identification and thread identification or is busy (claim 1, lines 14-19). As to claims 2, 9, 16, these are met by U.S. Patent No. 6,704,764, claim 2. As to claims 3, 10, 18, these are met by U.S. Patent No. 6,704,764, claim 3. As to claims 4, 11, 19, these are met by U.S. Patent No. 6,704,764, claim 4. As to claims 5, 12, 20, these are met by U.S. Patent No. 6,704,764, claim 5. As to claims 6, 13, 21, these are met by U.S. Patent No. 6,704,764, claim 6. As to claims 7, 14, 22, these are met by U.S. Patent No. 6,704,764, claim 7. As to claim 15, it is met by U.S. Patent No. 6,704,764, claim 10. As to claim 17, it is met by U.S. Patent No. 6,704,764, claim 1, line 5.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue Lao whose telephone number is (571) 272-3764. A voice mail service is also available at this number. The examiner's supervisor, SPE Meng-Ai An, can be reached on (571) 272 3756. The examiner can normally be reached on Monday - Friday, from 9AM to 5PM. The fax phone number for the organization where this application or proceeding is assigned is (571) 273 8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For


Application/Control Number: 10/759,554

Page 4

Art Unit: 2194

more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 28, 2005


SUE LAO
PRIMARY EXAMINER